

ASSEMBLY BILL

No. 266

Introduced by Assembly Member Blumenfield

February 7, 2013

An act to amend Sections 5205.5 and 21655.9 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 266, as introduced, Blumenfield. Vehicles: high-occupancy vehicle lanes.

Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles (HOVs), which lanes may also be used, until January 1, 2015, or until the Secretary of State receives a specified notice, by certain low-emission, hybrid, or alternative fuel vehicles not carrying the requisite number of passengers otherwise required for the use of an HOV lane, if the vehicle displays a valid identifier issued by the Department of Motor Vehicles. A violation of provisions relating to HOV lane use by vehicles with those identifiers is a crime.

This bill would extend the operation of those provisions to January 1, 2025, or until the Secretary of State receives that specified notice.

By extending a crime that otherwise would be inoperative, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5205.5 of the Vehicle Code, as added by
2 Section 1 of Chapter 37 of the Statutes of 2010, is amended to
3 read:

4 5205.5. (a) For the purposes of implementing Section 21655.9,
5 the department shall make available for issuance, for a fee
6 determined by the department to be sufficient to reimburse the
7 department for the actual costs incurred pursuant to this section,
8 distinctive decals, labels, and other identifiers that clearly
9 distinguish the following vehicles from other vehicles:

10 (1) A vehicle that meets California's super ultra-low emission
11 vehicle (SULEV) standard for exhaust emissions and the federal
12 inherently low-emission vehicle (ILEV) evaporative emission
13 standard, as defined in Part 88 (commencing with Section
14 88.101-94) of Title 40 of the Code of Federal Regulations.

15 (2) A vehicle that was produced during the 2004 model-year or
16 earlier and meets California's ultra-low emission vehicle (ULEV)
17 standard for exhaust emissions and the federal ILEV standard.

18 (b) The department shall include a summary of the provisions
19 of this section on each motor vehicle registration renewal notice,
20 or on a separate insert, if space is available and the summary can
21 be included without incurring additional printing or postage costs.

22 (c) The Department of Transportation shall remove individual
23 HOV lanes, or portions of those lanes, during periods of peak
24 congestion from the access provisions provided in subdivision (a),
25 following a finding by the Department of Transportation as follows:

26 (1) The lane, or portion thereof, exceeds a level of service C,
27 as discussed in subdivision (b) of Section 65089 of the Government
28 Code.

29 (2) The operation or projected operation of the vehicles
30 described in subdivision (a) in these lanes, or portions thereof, will
31 significantly increase congestion.

32 The finding also shall demonstrate the infeasibility of alleviating
33 the congestion by other means, including, but not limited to,
34 reducing the use of the lane by noneligible vehicles, or further
35 increasing vehicle occupancy.

1 (d) The State Air Resources Board shall publish and maintain
2 a listing of all vehicles eligible for participation in the programs
3 described in this section. The board shall provide that listing to
4 the department.

5 (e) For purposes of subdivision (a), the Department of the
6 California Highway Patrol and the department, in consultation
7 with the Department of Transportation, shall design and specify
8 the placement of the decal, label, or other identifier on the vehicle.
9 Each decal, label, or other identifier issued for a vehicle shall
10 display a unique number, and that number shall be printed on, or
11 affixed to, the vehicle registration.

12 (f) If the Metropolitan Transportation Commission, serving as
13 the Bay Area Toll Authority, grants toll-free and reduced-rate
14 passage on toll bridges under its jurisdiction to any vehicle pursuant
15 to Section 30102.5 of the Streets and Highways Code, it shall also
16 grant the same toll-free and reduced-rate passage to a vehicle
17 displaying an identifier issued by the department pursuant to
18 paragraph (1) or (2) of subdivision (a).

19 (g) If the Director of Transportation determines that federal law
20 does not authorize the state to allow vehicles that are identified by
21 distinctive decals, labels, or other identifiers on vehicles described
22 in subdivision (a) to use highway lanes or highway access ramps
23 for high-occupancy vehicles regardless of vehicle occupancy, the
24 Director of Transportation shall submit a notice of that
25 determination to the Secretary of State.

26 (h) This section shall become operative on January 1, 2011.

27 (i) This section shall remain in effect only until January 1, ~~2015~~
28 2025, or only until the date the Secretary of State receives the
29 notice described in subdivision (g), whichever occurs first, and as
30 of that date is repealed.

31 SEC. 2. Section 5205.5 of the Vehicle Code, as amended by
32 Section 2 of Chapter 674 of the Statutes of 2012, is amended to
33 read:

34 5205.5. (a) For purposes of implementing Section 21655.9,
35 the department shall make available for issuance, for a fee
36 determined by the department to be sufficient to reimburse the
37 department for the actual costs incurred pursuant to this section,
38 distinctive decals, labels, and other identifiers that clearly
39 distinguish the following vehicles from other vehicles:

1 (1) A vehicle that meets California's super ultra-low emission
2 vehicle (SULEV) standard for exhaust emissions and the federal
3 inherently low-emission vehicle (ILEV) evaporative emission
4 standard, as defined in Part 88 (commencing with Section
5 88.101-94) of Title 40 of the Code of Federal Regulations.

6 (2) A vehicle that was produced during the 2004 model-year or
7 earlier and meets California ultra-low emission vehicle (ULEV)
8 standard for exhaust emissions and the federal ILEV standard.

9 (3) A hybrid vehicle or an alternative fuel vehicle that meets
10 California's advanced technology partial zero-emission vehicle
11 (AT PZEV) standard for criteria pollutant emissions and has a 45
12 miles per gallon or greater fuel economy highway rating.

13 (4) A hybrid vehicle that was produced during the 2004
14 model-year or earlier and has a 45 miles per gallon or greater fuel
15 economy highway rating, and meets California's ULEV, SULEV,
16 or partial zero-emission vehicle (PZEV) standards.

17 (5) A vehicle that meets California's enhanced advanced
18 technology partial zero-emission vehicle (enhanced AT PZEV)
19 standard.

20 (b) Neither an owner of a hybrid vehicle that meets the AT
21 PZEV standard, with the exception of a vehicle that meets the
22 federal ILEV standard, nor an owner of a hybrid vehicle described
23 in paragraph (4) of subdivision (a), is entitled to a decal, label, or
24 other identifier pursuant to this section unless the federal
25 government acts to approve the use of high-occupancy vehicle
26 (HOV) lanes by vehicles of the types identified in paragraph (3)
27 or (4) of subdivision (a), regardless of the number of occupants.

28 (c) The department shall include a summary of the provisions
29 of this section on each motor vehicle registration renewal notice,
30 or on a separate insert, if space is available and the summary can
31 be included without incurring additional printing or postage costs.

32 (d) The Department of Transportation shall remove individual
33 HOV lanes, or portions of those lanes, during periods of peak
34 congestion from the access provisions provided in subdivision (a),
35 following a finding by the Department of Transportation as follows:

36 (1) The lane, or portion thereof, exceeds a level of service C,
37 as discussed in subdivision (b) of Section 65089 of the Government
38 Code.

1 (2) The operation or projected operation of the vehicles
2 described in subdivision (a) in these lanes, or portions thereof, will
3 significantly increase congestion.

4 (e) The State Air Resources Board shall publish and maintain
5 a listing of all vehicles eligible for participation in the programs
6 described in this section. The board shall provide that listing to
7 the department.

8 (f) (1) For purposes of subdivision (a), the Department of the
9 California Highway Patrol and the department, in consultation
10 with the Department of Transportation, shall design and specify
11 the placement of the decal, label, or other identifier on the vehicle.
12 Each decal, label, or other identifier issued for a vehicle shall
13 display a unique number, which number shall be printed on, or
14 affixed to, the vehicle registration.

15 (2) Decals, labels, or other identifiers designed pursuant to this
16 subdivision for a vehicle described in paragraph (5) of subdivision
17 (a) shall be distinguishable from the decals, labels, or other
18 identifiers that are designed for vehicles described in paragraphs
19 (1), (2), (3), and (4) of subdivision (a).

20 (g) (1) (A) Except as provided in subparagraph (B), for
21 purposes of subdivision (a), the department shall issue no more
22 than 85,000 distinctive decals, labels, or other identifiers that
23 clearly distinguish the vehicles specified in paragraphs (3) and (4)
24 of subdivision (a).

25 (B) The department may issue a decal, label, or other identifier
26 for a vehicle that satisfies all of the following conditions:

27 (i) The vehicle is of a type identified in paragraph (3) or (4) of
28 subdivision (a).

29 (ii) The owner of the vehicle is the owner of a vehicle for which
30 a decal, label, or identifier described in subparagraph (A) was
31 previously issued and that vehicle for which the decal, label, or
32 identifier was previously issued is determined by the department,
33 on the basis of satisfactory proof submitted by the owner to the
34 department, to be a nonrepairable vehicle or a total loss salvage
35 vehicle.

36 (iii) The owner of the vehicle applied for a decal, label, or other
37 identifier pursuant to this subparagraph on or before March 31,
38 2009, or within six months of the date on which the vehicle for
39 which a decal, label, or identifier was previously issued is declared

1 to be a nonrepairable vehicle or a total loss salvage vehicle,
2 whichever date is later.

3 (2) The department shall notify the Department of Transportation
4 immediately after the date on which the department has issued
5 50,000 decals, labels, and other identifiers under this section for
6 the vehicles described in paragraphs (3) and (4) of subdivision (a).

7 (3) The Department of Transportation shall determine whether
8 significant HOV lane breakdown has occurred throughout the state,
9 in accordance with the following timeline:

10 (A) For lanes that are nearing capacity, the Department of
11 Transportation shall make the determination not later than 90 days
12 after the date provided by the department under paragraph (2).

13 (B) For lanes that are not nearing capacity, the Department of
14 Transportation shall make the determination not later than 180
15 days after the date provided by the department under paragraph
16 (2).

17 (4) In making the determination that significant HOV lane
18 breakdown has occurred, the Department of Transportation shall
19 consider the following factors in the HOV lane:

20 (A) Reduction in level of service.

21 (B) Sustained stop-and-go conditions.

22 (C) Slower than average speed than the adjacent mixed-flow
23 lanes.

24 (D) Consistent increase in travel time.

25 (5) After making the determinations pursuant to subparagraphs
26 (A) and (B) of paragraph (3), if the Department of Transportation
27 determines that significant HOV lane breakdown has occurred
28 throughout the state, the Department of Transportation shall
29 immediately notify the department of that determination, and the
30 department, on the date of receiving that notification, shall
31 discontinue issuing the decals, labels, or other identifiers for the
32 vehicles described in paragraphs (3) and (4) of subdivision (a).

33 (h) (1) Except as provided in paragraph (2), for purposes of
34 paragraph (5) of subdivision (a), the department shall issue no
35 more than 40,000 distinctive decals, labels, or other identifiers that
36 clearly distinguish a vehicle specified in paragraph (5) of
37 subdivision (a).

38 (2) The department may issue a decal, label, or other identifier
39 for a vehicle that satisfies all of the following conditions:

1 (A) The vehicle is of a type identified in paragraph (5) of
2 subdivision (a).

3 (B) The owner of the vehicle is the owner of a vehicle for which
4 a decal, label, or other identifier described in paragraph (1) was
5 previously issued and that vehicle for which the decal, label, or
6 other identifier was previously issued is determined by the
7 department, on the basis of satisfactory proof submitted by the
8 owner to the department, to be a nonrepairable vehicle or a total
9 loss salvage vehicle.

10 (C) The owner of the vehicle applied for a decal, label, or other
11 identifier pursuant to this paragraph within six months of the date
12 on which the vehicle for which a decal, label, or other identifier
13 was previously issued is declared to be a nonrepairable vehicle or
14 a total loss salvage vehicle.

15 (i) If the Metropolitan Transportation Commission, serving as
16 the Bay Area Toll Authority, grants toll-free and reduced-rate
17 passage on toll bridges under its jurisdiction to a vehicle pursuant
18 to Section 30102.5 of the Streets and Highways Code, it shall also
19 grant the same toll-free and reduced-rate passage to a vehicle
20 displaying an identifier issued by the department pursuant to
21 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying
22 a valid identifier issued by the department pursuant to paragraph
23 (3) or (4) of subdivision (a) if the vehicle is registered to an address
24 outside of the region identified in Section 66502 of the Government
25 Code.

26 (j) An owner of a vehicle specified in paragraph (3) or (4) of
27 subdivision (a) whose vehicle is registered to an address in the
28 region identified in Section 66502 of the Government Code and
29 who seeks a vehicle identifier under subdivision (a) in order to
30 have access to an HOV lane within the jurisdiction of the Bay Area
31 Toll Authority shall do both of the following:

32 (1) Obtain and maintain an active account to operate within the
33 automatic vehicle identification system described in Section 27565
34 of the Streets and Highways Code and shall submit to the
35 department a form, approved by the department and issued by the
36 Bay Area Toll Authority, that contains the vehicle owner's name,
37 the license plate number and vehicle identification number of the
38 vehicle, the vehicle make and year model, and the automatic
39 vehicle identification system account number, as a condition to
40 obtaining a vehicle identifier pursuant to subdivision (a) that allows

1 for the use of that vehicle in HOV lanes regardless of the number
2 of occupants.

3 (2) Be eligible for toll-free or reduced-rate passage on toll
4 bridges within the jurisdiction of the Bay Area Toll Authority only
5 if, at time of passage, the vehicle meets the passenger occupancy
6 rate requirement established for that toll-free or reduced-rate
7 passage.

8 (k) (1) Notwithstanding Section 21655.9, and except as
9 provided in paragraph (2), a vehicle described in subdivision (a)
10 that displays a decal, label, or identifier issued pursuant to this
11 section shall be exempt from toll charges imposed on
12 single-occupant vehicles in high-occupancy toll lanes as described
13 in Section 149.7 of the Streets and Highways Code unless
14 prohibited by federal law.

15 (2) (A) Paragraph (1) does not apply to the imposition of a toll
16 imposed for passage on a toll road or toll highway, that is not a
17 high-occupancy toll lane as described in Section 149.7 of the
18 Streets and Highways Code.

19 (B) On or before March 1, 2014, paragraph (1) does not apply
20 to the imposition of a toll imposed for passage in lanes designated
21 for tolls pursuant to the federally supported value-pricing and
22 transit development demonstration program operated pursuant to
23 Section 149.9 of the Streets and Highways Code for State Highway
24 Route 10 or 110.

25 (C) Paragraph (1) does not apply to the imposition of a toll
26 charged for crossing a state-owned bridge.

27 (l) If the Director of Transportation determines that federal law
28 does not authorize the state to allow vehicles that are identified by
29 distinctive decals, labels, or other identifiers on vehicles described
30 in subdivision (a) to use highway lanes or highway access ramps
31 for high-occupancy vehicles regardless of vehicle occupancy, the
32 Director of Transportation shall submit a notice of that
33 determination to the Secretary of State.

34 (m) (1) This section shall remain in effect only until January
35 1, ~~2015~~ 2025, or until the date the Secretary of State receives the
36 notice described in subdivision (l), whichever occurs first, and as
37 of that date is repealed.

38 (2) However, with respect to a vehicle described in paragraph
39 (3) or (4) of subdivision (a), this section shall be operative only
40 until July 1, 2011, or only until the date the Secretary of State

1 receives the notice described in subdivision (I), whichever occurs
2 first.

3 (3) With respect to a vehicle described in paragraph (5) of
4 subdivision (a), this section shall become operative on January 1,
5 2012, and shall be operative only until January 1, ~~2015~~ 2025, or
6 until the date the Secretary of State receives the notice described
7 in subdivision (I), whichever occurs first.

8 SEC. 3. Section 21655.9 of the Vehicle Code is amended to
9 read:

10 21655.9. (a) (1) Whenever the Department of Transportation
11 or a local authority authorizes or permits exclusive or preferential
12 use of highway lanes or highway access ramps for high-occupancy
13 vehicles pursuant to Section 21655.5, the use of those lanes or
14 ramps shall also be extended to vehicles that are issued distinctive
15 decals, labels, or other identifiers pursuant to Section 5205.5
16 regardless of vehicle occupancy or ownership.

17 (2) A local authority during periods of peak congestion shall
18 suspend for a lane the access privileges extended pursuant to
19 paragraph (1) for those vehicles issued distinctive decals, labels,
20 or other identifiers pursuant to Section 5205.5, if a periodic review
21 of lane performance by that local authority discloses both of the
22 following factors regarding the lane:

23 (A) The lane, or a portion of the lane, exceeds a level of service
24 C, as described in subdivision (b) of Section 65089 of the
25 Government Code.

26 (B) The operation or projected operation of vehicles in the lane,
27 or a portion of the lane, will significantly increase congestion.

28 (b) A person shall not drive a vehicle described in subdivision
29 (a) of Section 5205.5 with a single occupant upon a high-occupancy
30 vehicle lane pursuant to this section unless the decal, label, or other
31 identifier issued pursuant to Section 5205.5 is properly displayed
32 on the vehicle, and the vehicle registration described in Section
33 5205.5 is with the vehicle.

34 (c) A person shall not operate or own a vehicle displaying a
35 decal, label, or other identifier, as described in Section 5205.5, if
36 that decal, label, or identifier was not issued for that vehicle
37 pursuant to Section 5205.5. A violation of this subdivision is a
38 misdemeanor.

39 (d) If the provisions in Section 5205.5 authorizing the
40 department to issue decals, labels, or other identifiers to hybrid

1 and alternative fuel vehicles are repealed, vehicles displaying those
2 decals, labels, or other identifiers shall not access high-occupancy
3 vehicle lanes without meeting the occupancy requirements
4 otherwise applicable to those lanes.

5 (e) (1) This section shall remain in effect only until January 1,
6 ~~2015~~ 2025, or until the date that the Secretary of State receives
7 the notice described in subdivision (l) of Section 5205.5, whichever
8 occurs first, and as of that date is repealed.

9 (2) However, with respect to a vehicle described in paragraph
10 (3) or (4) of subdivision (a) of Section 5205.5, this section shall
11 be operative only until July 1, 2011, or until the date the Secretary
12 of State receives the notice described in subdivision (l) of Section
13 5205.5, whichever occurs first.

14 (3) With respect to a vehicle described in paragraph (5) of
15 subdivision (a) of Section 5205.5, this section shall become
16 operative on January 1, 2012, and shall be operative only until
17 January 1, ~~2015~~ 2025, or until the date the Secretary of State
18 receives the notice described in subdivision (l) of Section 5205.5,
19 whichever occurs first.

20 SEC. 4. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.